

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

IN RE KRAFT HEINZ  
SECURITIES LITIGATION

Case No. 1:19-cv-01339

Honorable Elaine E. Bucklo

**SEVENTH JOINT STATUS REPORT**

Lead Plaintiffs Sjunde AP-Fonden and Union Asset Management Holding AG, additional named Plaintiff Booker Enterprises Pty Ltd. (collectively, “Plaintiffs”), and The Kraft Heinz Company (“Kraft Heinz Defendants” or the “Company”), Bernardo Hees, Paulo Basilio, David Knopf, Alexandre Behring, George Zoghbi, and Rafael Oliveira (together, the “Kraft Heinz Defendants”), and 3G Capital Partners and its affiliates<sup>1</sup> (“Defendant 3G”), (collectively, “Defendants,” and Plaintiffs and Defendants taken together, the “Parties”), by and through their respective counsel, have met and conferred and submit the following supplemental joint status report pursuant to the Court’s Order (ECF No. 365):

**I. STATUS OF DISCOVERY:**

The parties completed class certification discovery on July 8, 2022.<sup>2</sup> The deadline for substantial completion of all document discovery is December 12, 2022. The fact discovery deadline is June 19, 2023. The expert discovery deadline is October 20, 2023.

**A. Plaintiffs’ Discovery Efforts**

On September 17, 2021, Plaintiffs served their First Requests for the Production of Documents, requesting, among others, any documents Defendants had produced in connection with any internal investigation concerning the issues underlying Plaintiffs’ claims. The Kraft Heinz Defendants have informed Plaintiffs that they have substantially completed their production of documents collected during an internal investigation conducted by KHC’s independent directors. The Kraft Heinz Defendants are in the process of conducting their second-level review of certain

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<sup>1</sup> Inclusive of the following affiliated funds and business entities: 3G Capital, Inc. (a Delaware corporation); the Cayman Islands business entities 3G Global Food Holdings, L.P.; 3G Global Food Holdings GP LP; 3G Capital Partners LP; 3G Capital Partners II LP; and 3G Capital Partners Ltd.

<sup>2</sup> As described below in Section I.B, the Kraft Heinz Defendants have filed a motion to compel Lead Plaintiff Union for discovery regarding non-party funds associated with Union and to allow the Kraft Heinz Defendants to supplement the class certification record following the production of any such discovery. As noted below, Plaintiffs oppose this motion and Defendants’ efforts to re-open the class certification record.

documents collected during that internal investigation and preparing a log of any documents redacted or withheld on the basis of attorney-client privilege or work product protection. Plaintiffs continue to object to the Kraft Heinz Defendants' decision to withhold or redact any documents with respect to that production, including on the basis of responsiveness.

On November 12, 2021, Plaintiffs served a second set of discovery requests on Defendants (the "Second Requests"). Plaintiffs and the Kraft Heinz Defendants have continued to meet and confer regarding certain aspects of Defendants' response to the Second Requests, including search protocols for: (1) custodial sources other than emails and chats; (2) noncustodial sources; and (3) sources of ESI in the Individual Defendants' custody, possession, or control. On July 29, 2022, the Kraft Heinz Defendants began making rolling productions in response to Plaintiffs' Second Requests. Since then, the Kraft Heinz Defendants have made eleven productions totaling 1,213,288 documents and 6,936,971 pages in response to Plaintiffs' Second Requests and continue to make rolling productions approximately every two weeks.<sup>3</sup>

Plaintiffs' position is that the metrics presented by Defendants lack critical context and accordingly asked the Kraft Heinz Defendants to provide Plaintiffs and the Court with assurance that the Kraft Heinz Defendants are on track to substantially complete production by December 12, 2022. ECF No. 385. In response, the Kraft Heinz Defendants state as follows: The Kraft Heinz Defendants disagree with Plaintiffs' assertions and state that subject to any unforeseen circumstances or material changes in the Parties' ongoing negotiations, the Kraft Heinz Defendants expect that they will substantially complete production by the current deadline. It is Plaintiffs' position that the substantial completion deadline already has been extended by four months with

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<sup>3</sup> These totals exclude productions of the internal investigation documents described above, as well as reproductions of documents already produced to shareholders who have filed demands for books and records under Section 220 of the Delaware General Corporation Law and documents produced to the SEC during its investigation.

full view of the Parties' negotiations around the collection and review of the Kraft Heinz Defendants' documents.

The 3G Defendants began making rolling productions in response to Plaintiffs' Second Requests on July 8, 2022, and that effort is ongoing.

The Parties have agreed to expand the deposition limit set forth in Federal Rule of Civil Procedure 30(a)(2)(A)(i). Pursuant to that agreement, each side may take 240 hours of merits deposition testimony, with the number of merits depositions capped at 40 depositions. The Parties have reserved their rights to seek additional hours, to expand the cap, or to otherwise seek relief from the requirements of Fed. R. Civ. P. 30. The Parties agree to continue to comply with Rule 30. This agreement does not apply to expert depositions.

In addition to the party discovery outlined above, on October 4, 2022, Plaintiffs filed a motion to compel third-party PricewaterhouseCoopers LLP ("PwC") to comply with a subpoena *duces tecum*. PwC filed an opposition and cross-motion to quash on October 21, 2022. Plaintiffs' reply to PwC's opposition and Plaintiffs' opposition to PwC's motion to quash are due on November 4, 2022.

## **B. Defendants' Discovery Efforts**

On July 18, 2022, the Kraft Heinz Defendants filed a motion to compel Lead Plaintiff Union for discovery regarding non-party funds associated with Union and to allow the Kraft Heinz Defendants to supplement the class certification record following the production of any such discovery. (ECF No. 367.) Lead Plaintiff Union filed an opposition to the motion to compel on

August 24, 2022. (ECF No. 389.) The Kraft Heinz Defendants filed a reply on September 14, 2022. (ECF No. 396.)

**C. Class Certification**

Plaintiffs' reply brief in support of their motion for class certification was filed on July 19, 2022, concluding all deadlines for discovery and briefing related to class certification as scheduled by the Court for Plaintiffs' class certification motion.

Dated: October 31, 2022

/s/ Sharan Nirmul

**KESSLER TOPAZ MELTZER  
& CHECK, LLP**

Sharan Nirmul (#90751)  
Richard A. Russo, Jr.  
Joshua A. Materese (#314844)  
Margaret E. Mazzeo (#312075)  
Alex B. Heller (#321134)  
Austin W. Manning  
Helen J. Bass  
280 King of Prussia Road  
Radnor, Pennsylvania 19087  
Telephone: (610) 667-7706  
Facsimile: (610) 667-7056  
snirmul@ktmc.com  
rrusso@ktmc.com  
jmaterese@ktmc.com  
mmazzeo@ktmc.com  
aheller@ktmc.com  
amanning@ktmc.com  
hbass@ktmc.com

-and-

**KESSLER TOPAZ MELTZER  
& CHECK, LLP**

Jennifer L. Joost (#296164)  
One Sansome Street, Suite 1850  
San Francisco, CA 94104  
Telephone: (415) 400-3000

Respectfully submitted,

/s/ Andrew Ehrlich

**PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP**

Daniel J. Kramer (*pro hac vice*)  
Andrew Ehrlich (*pro hac vice*)  
William A. Clareman (*pro hac vice*)  
Amy L. Barton (*pro hac vice* forthcoming)  
Alison R. Benedon (*pro hac vice*)  
1285 Avenue of the Americas  
New York, NY 10019  
Telephone: (212) 373-3000  
Email: dkramer@paulweiss.com  
aehrich@paulweiss.com  
wclareman@paulweiss.com

*Counsel for Defendants The Kraft Heinz Company, Bernardo Hees, Paulo Basilio, David H. Knopf, Alexandre Behring, George Zoghbi, and Rafael Oliveira*

**JENNER & BLOCK LLP**

Dean N. Panos (Il. ARDC # 6203600)  
Howard S. Suskin (Il. ARDC # 6185999)  
Gabriel K. Gillett (Il. ARDC # 6328233)  
353 N. Clark Street  
Chicago, IL 60654  
Telephone: (312) 222-9350  
Email: hsuskin@jenner.com  
dpanos@jenner.com  
ggillett@jenner.com

Facsimile: (415) 400-3001

*Counsel for Co-Lead Plaintiff  
AP-7 and Additional Plaintiff Booker, and Co-Lead  
Counsel for the Class*

**BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP**

Salvatore Graziano  
Katherine M. Sinderson  
Abe Alexander  
Jesse L. Jensen  
Benjamin W. Horowitz  
Nicole Santoro  
1251 Avenue of the Americas  
New York, NY 10020  
Tel: (212) 554-1400  
Fax: (212) 554-1444  
salvatore@blbglaw.com  
katiem@blbglaw.com  
abe.alexander@blbglaw.com  
jesse.jensen@blbglaw.com  
will.horowitz@blbglaw.com  
nicole.santoro@blbglaw.com

-and-

**BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP**

Avi Josefson  
875 North Michigan Avenue,  
Suite 3100 Chicago, Illinois 60611  
Telephone: (312) 373-3880  
Facsimile: (312) 794-7801

*Counsel for Co-Lead Plaintiff  
Union and Co-Lead Counsel for the Class*

*Local counsel for Defendants The Kraft  
Heinz Company, Bernardo Hees, Paulo  
Basilio, David H. Knopf, Alexandre Behring,  
George Zoghbi, and Rafael Oliveira*

/s/ Kevin M. Neylan, Jr.

**KIRKLAND & ELLIS LLP**

Sandra C. Goldstein (*pro hac vice*)  
Stefan Atkinson (*pro hac vice*)  
Kevin M. Neylan, Jr. (*pro hac vice*)  
601 Lexington Avenue  
Telephone: (212) 446-4800  
New York, NY 10022  
Email: sandra.goldstein@kirkland.com

Brenton A. Rogers  
300 North LaSalle  
Chicago, Illinois 60654  
Telephone: (312) 862-2000  
Email: brogers@kirkland.com

*Counsel for Defendant 3G Capital Partners,  
3G Capital, Inc., 3G Global Food Holdings,  
L.P., 3G Global Food Holdings GP LP, 3G  
Capital Partners LP, 3G Capital Partners II  
LP, 3G Capital Partners Ltd.*